

MATTHEW BOWDEN December 5, 2008
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION,)
A DELAWARE CORPORATION,)
ORACLE USA, INC., A COLORADO)
CORPORATION, AND ORACLE)
INTERNATIONAL CORPORATION, A)
CALIFORNIA CORPORATION,)
Plaintiffs,)
)
vs.) CASE NO. 07-CV-01658 (MJJ)
)
SAP AG, A GERMAN CORPORATION,)
SAP AMERICA, INC., A DELAWARE)
CORPORATION, TOMORROWNOW,)
INC., A TEXAS CORPORATION, AND)
DOES 1-50, INCLUSIVE,)
Defendants.)

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ORAL VIDEOTAPED DEPOSITION OF
MATTHEW BOWDEN
December 5, 2008

ORAL VIDEOTAPED DEPOSITION OF MATTHEW BOWDEN, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on Friday, December 5, 2008, from 9:04 a.m. to 5:51 p.m., before JAMES M. PLAIR, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of JONES DAY, 717 Texas, Suite 3300, Houston, Texas 77002-2712, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-89469

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14 MR. POLITO: I'm going to mark as
15 Plaintiff's Exhibit 538 a document from SAS. The title at
16 the top reads PY06FEB Individual Fix Testing,
17 CSS-TN-0207066113, and it begins with -- it's from SAS.
18 It begins with Bates No. SAS-TN-OR00009569-OR-00648 and
19 continues through 658.

20 (Exhibit 538 marked)

21 Q. (BY MR. POLITO) Mr. Bowden, I will represent to
22 you that this document that's marked Plaintiff's Exhibit
23 538 is a printout of the last little Word document that's
24 in Exhibit 537 on the last page titled Kimberley Martinez,
25 titled with the fix number, and then Spec Accum for Supp

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1 Earnings.doc

2 A. Okay.

3 Q. Have you seen this document before?

4 A. Perhaps not.

5 Q. Earlier you said that from looking at the actual
6 Master Fix that you would expect this to be a QA document?

7 A. Yes.

8 Q. So we're just going to look on the first page.
9 You're welcome to look at the entire document --

10 A. Okay.

11 Q. -- but my questions are going to be limited at this
12 time.

13 A. Okay.

14 Q. So up at the top it says CSS-TN-0207066113.
15 That's the same fix we've been talking about in the
16 special fix, right --

17 A. Yes.

18 Q. -- the timing fix? "Big Lots and Foot Locker
19 need update process for Taxable Bonus Earnings Special
20 Accumulator", and then if you go to the fourth row of the
21 table on the right-hand side, it says: "Databases,
22 H831BLSD (where Unit Testing was completed)", and then it
23 says: "H830FLIO (QA only testing)". Do you see that,
24 Mr. Bowden?

25 A. Yes.

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1 Q. Are those the same environment names that
2 appeared in Plaintiff's Exhibit 536 which is the e-mail
3 that we started with?

4 A. Yes.

5 Q. And do you see that it says that unit testing
6 was done in Big Lots' environment?

7 A. Yes.

8 Q. Do you see there where it says that Foot Locker
9 was the location for QA only testing?

10 A. Yes.

11 Q. Looking at this document, do you have an
12 understanding that this fix was tested -- unit tested in
13 Big Lots' environment and QA tested in Foot Locker's
14 environment?

15 A. Yes.

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14 Q. Great. Let's proceed. I'm going to give you
15 what's been already marked as Plaintiff's Exhibit 289.
16 Mr. Bowden, TomorrowNow's corporate representative has
17 identified that the line that says REM database on here
18 and it says D881DATM --

19 A. Uh-huh.

20 Q. -- in fact indicates that database that was used
21 to create the file. Is that your understanding as well?

22 A. Yes.

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5 MR. POLITO: Okay. So I'm going to mark
6 some more exhibits. Mr. Bowden, this is Plaintiff's
7 Exhibit 558. It's a series of first pages of documents,
8 all of which are contained in their entirety on
9 Exhibit 551 and these are TN-OR00009557 DW-11 through 15,
10 and as with all the other documents from this disk, I am
11 representing to you that -- or, rather, for all of them --
12 all of them in this section of the deposition Bates
13 numbers DW-2 through 41, that, in fact, the path here is
14 the path at which the file is found.

15 (Exhibit 558 marked)

16 Q. (BY MR. POLITO) Mr. Bowden, take a moment to
17 examine the first four pages of this exhibit and my
18 question for you is at the time at which these documents
19 were created, which I'll represent to you was March 20th,
20 2007, was a single file delivered both to ArvinMeritor and
21 ConAgra the TN-PY07MARM.DAT created on D831DATM?

22 A. That would be my assumption.

23 Q. And the same is true for what's on Bates numbers
24 12 and 14 TN-PY07MARU_DAT?

25 MR. ARMSTRONG: Objection. These documents

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1 speak for themselves.

2 A. That would be my assumption.

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7 Q. (BY MR. POLITO) If you go to the page ending in
8 Bates No. 592, which is the last page --

9 A. Okay.

10 Q. -- if you look at the information for testing,
11 I'm reading the names of the unit test file names and I
12 see an H890GKN. Is that for release level 8.9 if the file
13 name convention actually matches the contents?

14 A. Yes.

15 Q. How about H801TPN -- I'm sorry -- TPM? Is that
16 for 8 Service Pack 1?

17 A. Based on the naming convention, I would assume
18 that.

19 Q. Again, based on the naming convention, is the
20 next one for 8.3 Service Pack 1?

21 A. Yes.

22 Q. And is the next one for 8.3 Service Pack 1 as
23 well?

24 A. Yes.

25 Q. And then the last one is also for 8.3 Service

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1 Pack 1?

2 A. Yeah.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, a Delaware)
corporation, ORACLE USA, INC., a)
Colorado corporation, and ORACLE)
INTERNATIONAL CORPORATION,)
a California corporation,)
Plaintiffs,)
)
vs.) CASE NO. 07-CV-01658 (MJJ)
)
SAP AG, a German corporation,)
SAP AMERICA, INC., a Delaware)
corporation, TOMORROWNOW, INC., a)
Texas corporation, and DOES 1-50,))
inclusive,)
Defendants.)

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ORAL VIDEOTAPED DEPOSITION

RODERIC RUSSELL

FEBRUARY 5, 2009

ORAL VIDEOTAPED DEPOSITION OF RODERIC RUSSELL, produced
as a witness at the instance of the Plaintiffs and duly sworn,
was taken in the above-styled and numbered cause on the 5th
day of February, 2009, from 8:56 a.m. to 4:05 p.m., before
Dana Richardson, Certified Shorthand Reporter in and for the
State of Texas, reported by computerized stenotype machine at
the offices of Jones Day, 717 Texas Avenue, Suite 3300,
Houston, Texas 77002, pursuant to the Federal Rules of Civil
Procedure and the provisions stated on the record or attached
hereto.

Job No. 1603-90332

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--

13:52:34 4 Q. Is that consistent with your memory of this fix?

13:52:39 5 A. I didn't have any independent memory other than

13:52:43 6 what's read here.

13:52:44 7 Q. If you go to the next page, which ends in 299, in the

13:52:49 8 middle, there's an e-mail from Kim Martinez to multiple

13:52:55 9 recipients, including you, where she says: "Sharon and Rod,

13:52:57 10 This fix is in the 'year end' range of reports...I see that

13:53:00 11 RHI reported to this."

13:53:04 12 Does that refresh your recollection that RHI

13:53:06 13 reported this error?

13:53:10 14 A. Yes. It -- it states that.

13:53:18 15 Q. So, going back to the prior page, which is 298, you

13:53:26 16 see there's a reference to an Excel document there --

13:53:30 17 A. Yes.

13:53:31 18 Q. -- with the fix number and then fix object list dot

13:53:34 19 xls?

13:53:36 20 MR. POLITO: I mark as Plaintiff's Exhibit 817

13:53:47 21 an Excel spreadsheet, Bates No. SAS-TN-OR-01823633 OR-00294.

22 (Exh.817 marked)

13:54:10 23 Q. (By Mr. Polito) Mr. Russell, I'll represent to you

13:54:12 24 that this is the printout of that fix object list file.

13:54:19 25 So, looking at the "Fix ID" column, which is

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13:54:23 1 the third column --

13:54:25 2 A. Yes.

13:54:26 3 Q. -- it's the same fix that we're talking about in that
13:54:28 4 prior exhibit, 816?

13:54:32 5 A. Yes.

13:54:33 6 Q. And if you look at the second-to-last column, it
13:54:37 7 says: "Locally maintained clients who get this fix." And
13:54:41 8 there's a long list. And it says: "Remote customers who
13:54:43 9 received PY07JUNE also need this." And there's two more
13:54:48 10 customers.

13:54:49 11 Do you see that?

13:54:49 12 A. Yes.

13:54:57 13 Q. Do you recall that a number of local remote customers
13:55:02 14 received this fix?

13:55:03 15 MR. FUCHS: Objection, form.

13:55:06 16 A. Given this list, I would assume a number did.

13:55:07 17 Q. (By Mr. Polito) And by talking about this fix here,
13:55:09 18 I mean they received a set of object changes and data changes.
13:55:14 19 I don't mean that they received the SAS printout.

13:55:19 20 MR. FUCHS: Objection, form.

13:55:20 21 A. Yes. I would assume so based upon this list.

13:55:25 22 Q. (By Mr. Polito) So, if you go back to the prior
13:55:27 23 exhibit, which is 816, if you go to the page ending in 297 --
13:55:35 24 I think it might be a page back from where you are -- you see
13:55:40 25 at the top -- actually, it starts just on the bottom of the

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13:55:45 1 page before, I'm sorry, where the words "Test Plan" occur.
13:55:51 2 And then it continues to the next page, and there's a list of
13:55:54 3 one environment per release.
13:55:59 4 A. Yes.
13:56:06 5 Q. Was this fix tested only for one environment per
13:56:09 6 release?
13:56:13 7 A. I would have to assume that based upon what's listed
13:56:16 8 here.
13:56:31 9 Q. Was this fix developed for only one client per
13:56:36 10 release?
13:56:38 11 MR. FUCHS: Objection, form.
13:56:40 12 A. I don't believe that it was.
13:56:43 13 Q. (By Mr. Polito) How do you believe this fix was
13:56:46 14 developed?
13:56:57 15 A. I'm not sure. The -- the reason why I wouldn't
13:57:00 16 believe that is because there were remote clients as well.
13:57:05 17 Q. Do you see any indication that either of the remote
13:57:07 18 clients listed in Exhibit 817 were tested?
13:57:27 19 A. Do we have the updated test plan document here in the
13:57:31 20 Excel spreadsheet on 297?
13:57:38 21 Q. I don't think that I do. Would that be where you
13:57:40 22 would look to determine whether the remote --
13:57:43 23 A. Well, I would look at everything related to this
13:57:47 24 particular item. It is possible that there is additional
13:57:52 25 information there.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION
CASE NO. 07-CV-01658 PJH(EDL)

ORACLE USA, INC., a Colorado
corporation, et al.,

Plaintiffs,

-vs-

SAP AG, a German corporation, et al.,

Defendants.

/

* * * * *

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VIDEOTAPED
DEPOSITION OF: CATHERINE HYDE

DATE TAKEN: TUESDAY, MAY 12, 2009

TIME: 9:06 A.M.

PLACE: 9300 AIRPORT BOULEVARD
ORLANDO, FLORIDA

REPORTED BY: CARMEN THOMAS, REGISTERED
PROFESSIONAL REPORTER AND
NOTARY PUBLIC

* * * * *

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14:09:08 17 Q Then turning two more pages to where they're
14:09:14 18 listing -- where it says, testing documentation and
14:09:16 19 there's a series of entries by Wanda Jones. Do you see
14:09:22 20 that?
14:09:22 21 A Yes.
14:09:22 22 Q And it says, testing completed for 801QGIS,
14:09:26 23 751ACTM, 831TAIM and 881COHM, testing completed for all
14:09:34 24 releases. You see those entries?
14:09:36 25 A Yes.

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14:09:36 1 Q Is that indicating that those are the
14:09:40 2 environments chosen for the testing for each of those
14:09:44 3 releases?
14:09:44 4 MS. LEE: Objection. Lack of foundation.
14:09:46 5 THE WITNESS: I'd say it meant that this was
14:09:52 6 completed in that version -- that release there,
14:09:56 7 the QTIS or ACTM.
14:09:58 8 BY MR. HOWARD:
14:09:58 9 Q But for all 751 clients receiving that fix?
14:10:04 10 MS. LEE: Same objection.
14:10:04 11 THE WITNESS: I am not sure.
14:10:06 12 BY MR. HOWARD:
14:10:06 13 Q You see where it says, testing completed for
14:10:08 14 all releases?
14:10:10 15 A Yes.
14:10:10 16 Q Does that indicate to you that that was the
14:10:12 17 testing that was done for each release as indicated in
14:10:16 18 each of those four lines above?
14:10:16 19 A I'm not sure.
14:10:20 20 Q Is that how you would interpret it?
14:10:28 21 A For the individual test possibly.
14:10:30 22 Q For the individual fixed testing you mean?
14:10:34 23 A Yes.
14:10:34 24 Q As opposed to the bundle testing?
14:10:38 25 A Yes.

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14:19:36 3 Q Then on the last page of the 1277 exhibit,
14:19:46 4 after a series of sources for 751, the last line says,
14:19:54 5 for ADV, BSC, GCG, HVH, ICF, NCL use HR751CSS to test.
14:20:04 6 Do you see that?
14:20:04 7 A Yes.
14:20:04 8 Q Why would HR751CSS be the testing environment
14:20:10 9 for that group of six clients?
14:20:12 10 MS. LEE: Objection. Lack of foundation.
14:20:14 11 THE WITNESS: I would guess that those were
14:20:18 12 all the extended support that rolled over into the
14:20:22 13 751CSS.
14:20:22 14 BY MR. HOWARD:
14:20:40 15 Q Is that -- do you recall those are the
14:20:40 16 extended support clients on HR751 at the time that the
14:20:46 17 change was made to the HR751CSS?
14:20:50 18 A Some of them I recognize, but I don't recall
14:20:52 19 every single one of them.

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15:05:26 2 Q So with those two possible caveats,
15:05:28 3 Exhibit 1283 is the master fix view of the 765 fix.
15:05:34 4 Ms. Hyde, looking at this on page two, do you
15:05:38 5 see that the TAX810AK.SQR is one of the objects that's
15:05:42 6 being developed for this fix?
15:05:44 7 A It's listed here, yes.
15:05:46 8 Q Right. That's the same object that's being
15:05:50 9 -- that was being discussed in the Exhibit 1282 that we
15:05:54 10 just saw?
15:05:54 11 A This one's about online stuff. This 1282 was
15:06:04 12 about -- was an online issue.
15:06:04 13 Q The panel group?
15:06:08 14 A Yes.
15:06:08 15 Q But is -- is that issue part of the 765 fix
15:06:18 16 that's been -- the master fix view which has been marked
15:06:24 17 as Exhibit 1283?
15:06:24 18 MS. LEE: Objection. Lack of foundation.
15:06:26 19 THE WITNESS: Based on that e-mail I would
15:06:30 20 think it is, yes.
15:06:30 21 BY MR. HOWARD:
15:06:36 22 Q And so it would be -- for example, on page
15:06:38 23 two of Exhibit 1283, would it be the TAX810.AK.SQRs that
15:06:48 24 are listed for development in the 8.X releases?
15:06:54 25 MS. LEE: Objection. Vague and ambiguous.

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15:06:56 1 THE WITNESS: I'm not sure what the question
15:06:58 2 is.
15:06:58 3 BY MR. HOWARD:
15:07:00 4 Q I'm just trying to -- I'm just trying to
15:07:02 5 place the discussion from Exhibit 1282 in the developed
15:07:10 6 objects that are listed in the fix that's 1283.
15:07:16 7 A They're talking about an online issue here.
15:07:18 8 It doesn't impact the SQR.
15:07:22 9 Q When -- right. But when Mr. Tong says that
15:07:40 10 he used HG751ANC as the baseline, I guess my question
15:07:46 11 is, is it true that he's saying he used it as the
15:07:52 12 baseline for the SQRs that are listed here under
15:07:58 13 development for the 751 releases in Exhibit 1283?
15:08:04 14 MS. LEE: Objection. Lack of foundation.
15:08:06 15 THE WITNESS: I couldn't say.
15:08:06 16 BY MR. HOWARD:
15:08:28 17 Q Now, under the development notes in
15:08:32 18 Exhibit 1283, that's on the fifth page of the exhibit,
15:08:54 19 does that indicate that Barbara Myrick assigned the
15:08:56 20 development to Ed Tong and Hadi Arakib?
15:09:00 21 A That's what it looks like, yes.
15:09:00 22 Q And then three weeks later or so she
15:09:06 23 indicates that Ed is working solo on the development?
15:09:10 24 A That's what it says.
15:09:12 25 Q And then he makes an entry that versions for

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15:09:14 1 702, 751 commercial, 8SP1 8.3SP1, 8.8SP1, 8.9SP1 are
15:09:26 2 copied to the development staging folders?
15:09:28 3 A That's what it says.
15:09:30 4 Q Then he says, unit test document was produced
15:09:36 5 using the H801TPPM environment. You see that?
15:09:40 6 A I see it.
15:09:40 7 Q Did you ever use the H801TPPM environment?
15:09:50 8 A It doesn't ring any bells.